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Claims 1-32 are pending in the application. Claims 1-4, 7-13, 15-18, 20-28, and 30-32 have been withdrawn from consideration. Applicants reserve the right to file a divisional and/or continuation application directed to any of the non-elected claims. Applicants amend claims 5 and 29 for clarification. No new matter has been added.

Claims 5-6, 14, 19, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/006395 to Sugaya et al. in view of U.S. Patent No. 5,986,799 to Itou et al. Applicants amend claims 5 and 29 in a good faith effort to clarify the invention as distinguished from the cited references, and respectfully traverse the rejection.

The Examiner acknowledged that Sugaya et al. do not disclose the claimed "second variable optical attenuator" and the claimed "second control unit," but contended that this reference disclosed the remaining features of the claimed invention. Sugaya et al. only describe a single control unit that controls a first and second optical amplifier unit independently. The Examiner relied upon Itou et al. as a combining reference that allegedly discloses a variable optical attenuator at the input of an EDFA. Neither reference discloses or suggests "a second variable optical attenuator to attenuate another branched light of the optical coupler," as claimed.

Thus, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Sugaya et al. and Itou et al., the combination would still have failed to disclose or suggest,

"[a]n optical amplifier comprising:
an optical coupler to branch an input light;
a first optical amplifier unit to amplify one of the branched
light of the optical coupler;

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a first variable optical attenuator to attenuate an output of the first optical amplifier unit;
a second optical amplifier unit to amplify an output light of the first variable optical attenuator;
a second variable optical attenuator to attenuate another branched light of the optical coupler;
a first control unit to control gains of the first and second optical amplifier units based on an output of the second variable optical attenuator and an output of the second optical amplifier unit; and
a second control unit to control attenuation quantities of the first and second variable optical attenuators based on the input and the output of the optical amplifier unit and an input and the output of the second optical amplifier unit," as recited in claim 5.
(Emphasis added)

Accordingly, Applicants respectfully submit that claim 5, together with claims 6, 14, and 19 dependent therefrom, is patentable over Sugaya et al. and Itou et al., separately and in combination, for at least the foregoing reasons. Claim 29 incorporates features that correspond to those of claim 5 cited above, and is, therefore, patentable over the cited references for at least the same reasons.

The above statements on the disclosure in the cited references represent the present opinions of the undersigned attorney. The Examiner is respectfully requested to specifically indicate those portions of the respective reference that provide the basis for a view contrary to any of the above-stated opinions.

Applicants appreciate the Examiner's implicit finding that the additional references made of record, but not applied, do not render the claims of the present application unpatentable, whether these references are considered alone or in combination with others.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider

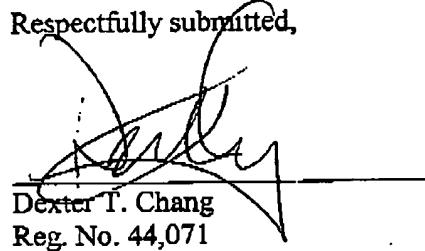
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this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged on Deposit Account 50-1290.

Respectfully submitted,


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